

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

REBECKAH AUBERTIN,

Plaintiff,

v.

No. 2:22-cv-732 GJF/KRS

JIMMY A. CASTLE,
AC FREIGHT SOLUTIONS, INC.,
LENITA'S EXPRESS, INC.,
and FIRST GUARD INSURANCE COMPANY,

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER comes before the Court *sua sponte*. Plaintiff initiated this action in state court on August 11, 2022, and Defendant AC Freight Solutions, Inc., removed the case to this Court on October 3, 2022. (Doc. 1). Defendants Jimmy A. Castle, Lenita's Express, Inc., and AC Freight Solutions, Inc., filed answers to Plaintiff's Complaint on October 11, 2022. (Docs. 4 and 5). The docket reflects that an affidavit of service was filed in state court stating that Defendant First Guard Insurance Company was served on August 17, 2022. (Doc. 1-2) at 23. However, no answer or other responsive pleading has been filed by that Defendant. Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff is required to serve all Defendants within ninety days of filing the complaint. In addition, Rule 41(b) of the Federal Rules of Civil Procedure authorizes the Court to dismiss an action *sua sponte* for failure to prosecute. *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003); *see also* D.N.M. LR-Civ. 41.1 ("A civil action may be dismissed if, for a period of ninety (90) calendar days, no steps are taken to

move the case forward.”). More than ninety days have passed since Plaintiff took any step to move this case forward as to Defendant First Guard Insurance Company.

IT IS THEREFORE ORDERED that **on or before January 18, 2023**, Plaintiff must provide the Court with a written explanation showing good cause why this case should not be dismissed as to Defendant First Guard Insurance Company for failure to prosecute.

A handwritten signature in dark ink, appearing to read "Kevin Sweazea". The signature is written in a cursive, flowing style.

KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE